



## HERMOSA BEACH POLICE DEPARTMENT

### O3.08 AUDIO/VIDEO RECORDING

Supersedes O3.09

Effective 10/27/2009

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#### PURPOSE AND SCOPE

This policy provides guidelines for the use of all audio/video recording devices by employees of this Department while in the performance of their duties. Audio/video recording devices includes, but is not limited to mobile video systems, body-worn cameras, digital cameras, and/or fixed security cameras.

Audio and video recording of contacts between Department members and the public provides an objective record of events, and the use of a recording system assists Department members in the performance of their duties by providing a digital record of enforcement and investigations. A recording of an event or contact also enables the delivery of timely, relevant and appropriate training to maximize safety for our employees and improve the provision of services to the community.

(CALEA 41.3.8 a)

#### DEFINITIONS

Definitions related to this policy include:

**Activate** - Any process that causes the recording system to transmit or store video or audio data in an active mode.

**Body worn camera (BWC)** – Any device that captures audio and video that is capable of being worn on an officer's person.

**Digital media technician** - Department member who is certified or trained in the operational use of all recording systems, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

**Digital Evidence Management System (DEMS)** – A management system designed to digitally collect, store, secure, disseminate and purge recorded media. The digital recordings are accessible to authorized personnel and maintain an audit trail of user activity.

**Mobile Audio/Video (MAV) system** - Any system that captures audio and video signals, is capable of installation in a vehicle, and includes at a minimum a camera, microphone, recorder, and monitor. An "in car camera system" is a synonymous term for an MAV system.

**Personally-owned recorder** – A recording device, including but not limited to a cellular telephone, handheld video recorder, handheld voice recorder, that is used by the Department member during his/her shift, but not owned by the Department.

**Recorded media** – Audio or video signals recorded or digitally stored on a storage device or portable media

## **POLICY**

It is the policy of the Department to use recording systems to more effectively fulfill the Department's mission by accurately capturing contacts between members of the Department and the public and to ensure these systems are used securely and efficiently.

The Department has equipped patrol cars with MAV recording systems to provide records of events and assist officers. Additionally, the Department will assign BWCs to designated employees for use during the performance of their duties. Designated employees include sworn Police Officers and Community Service Officers.

At least annually, the Investigative/Administrative Services Division Commander will conduct a documented review of this policy to ensure it complies with current law and best practices.

## **COORDINATOR**

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of recording systems and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Ensuring it is stored in a secure location with authorized controlled access
- (d) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (e) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (f) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (g) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (h) Maintaining logs of access, copies and deletions of recordings.
- (i) Ordering, issuing, and retrieving all recording devices
- (j) Erasing of media:
  - Pursuant to a court order.

- In accordance with established records retention policies, including all other media deemed to be of no evidentiary value.

(k) Assigning all recording devices an identification number prior to issuance to the field:

(l) Maintaining a record of issued recording devices.

(m) Ensuring that an adequate supply of recording media is available.

(n) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the Department evidence storage protocols and the records retention schedule.

## **TRAINING**

Employees, including supervisors, shall not use MAV/BWC recording systems unless they have successfully completed training in the proper use of such equipment. All introductory training for MAV/BWC shall be documented in the appropriate training file.

(CALEA 41.3.8 f)

## **EMPLOYEE PRIVACY EXPECTATION**

All recordings made by employees on any Department-issued device at any time, and any recording made while acting in an official capacity for this Department, regardless of ownership of the device it was made on, shall remain the property of the Department. Employees shall have no expectation of privacy or ownership interest in the content of these recordings.

## **EMPLOYEE RESPONSIBILITIES**

Prior to going into service, each officer will properly equip him/herself to record audio and video in the field and will be responsible for ensuring that the recording systems are in good working order. At the start of each shift, officers shall test the recording system's operation in accordance with manufacturer specifications and Department operating procedures and training. Additionally, all officers shall ensure that all recording systems have sufficient memory and battery to last the duration of their shift.

If any recording systems are not in working order or the officer becomes aware of a malfunction at any time, the officer shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. If it is discovered that a MAV is not functioning properly, the officer shall select another vehicle (if available) and report the malfunctioning MAV to the Watch Commander, in accordance with the vehicle repair procedures set forth in this manual. If no other vehicle with a functioning MAV is available, the officer shall note, via MDC, that the vehicle he/she is using is not equipped with a functioning MAV.

Uniformed officers are required to wear portable recorders in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable. BWC is to be forward facing and unobstructed by equipment, uniforms or safety gear.

(CALEA 41.3.8 e)

Any officer assigned to a non-uniformed position may carry an approved portable recorder at any time the officer believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed officers should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Officers shall document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the officer deactivated the recording. Reports should include the reason for deactivation.

At the end of the shift, each officer will ensure that the recordings system(s) are downloaded/downloading to their designated database(s). In the event an officer works at a remote location and reports in only periodically, additional recording media may be issued. Only Hermosa Beach Police Department identified and labeled media with tracking numbers is to be used.

If an officer accidentally records a non-law enforcement related conversation or incident (e.g. bathroom break), he/she shall notify the Watch Commander. The Watch Commander will review the recording and forward the request to delete the recording to the Division Commander.

### **SUPERVISORS RESPONSIBILITIES**

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, Department-involved collisions), a supervisor shall respond to the scene and ensure that the recording is properly retrieved. Supervisors shall take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18). The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

Supervisors should determine if vehicles with non-functioning MAV systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made, including notification of Dispatch.

Supervisors may activate the recording systems remotely to monitor a developing situation, such as a chase, riot or an event that may threaten public safety, officer safety or both, when the purpose is to obtain tactical information to assist in managing the event. Supervisors shall not remotely activate the recording systems for sole the purpose of monitoring the conversations or actions of an officer.

### **ACTIVATION OF THE RECORDING DEVICES**

This policy is not intended to describe every possible situation in which a recording device should be used, although there are many situations where its use is appropriate. Officers shall

activate recording devices any time the officer believes it would be appropriate or valuable to record an incident.

## I. Required Activation of Recording Devices

The recording systems shall be activated in any of the following situations:

- (a) All field contacts involving actual or potential criminal conduct:
  - 1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
  - 2. Priority responses
  - 3. Vehicle pursuits
  - 4. Suspicious vehicles
  - 5. Arrests
  - 6. Vehicle searches
  - 7. Physical or verbal confrontations or use of force
  - 8. Pedestrian checks
  - 9. DWI/DUI investigations including field sobriety tests
  - 10. Consensual encounters
  - 11. Crimes in progress
  - 12. Responding to an in-progress call
  - 13. At the request of a member of the public
- (b) All enforcement and investigative contacts including:
  - 1. Stops and field interview (FI) situations
  - 2. Animal control situations
- (c) All self-initiated activity in which an officer would normally notify Dispatch
- (d) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:
  - 1. Domestic violence calls
  - 2. Disturbance of peace calls
  - 3. Offenses involving violence or weapons
- (e) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

(f) Any other circumstance where the officer believes that a recording of an incident would be appropriate

Officers should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the officer that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criteria. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is an employee expected to jeopardize his/her safety in order to activate or deactivate the MAV system or BWC. However, the recorder should be activated in situations described above as soon as reasonably practicable.

(CALEA 41.3.8 b)

## II. Cessation of Recording

Once activated, the recording device(s) should remain on continuously until the officer reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. At the officer's discretion, he/she may pause the recording. Prior to pausing, officers shall verbally specify on the recording device the reason for interrupting the recording. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Officers shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

## III. Surreptitious use of recording devices

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633). Employees shall not surreptitiously record another Department employee without a court order unless lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

## IV. Explosive Device

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

## **PROHIBITED USE OF RECORDING DEVICES**

Employees are prohibited from using Department-issued recording devices for personal use, including any off-duty assignments or outside employment. Additionally, employees are

prohibited from tampering, deleting or making personal copies of recordings created while on-duty or while acting in their official capacity.

Employees are prohibited from using personally owned recording devices while on-duty without the express consent of the Division Commander. Any employee who uses a personally owned recorder for Department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Employees are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with Department-issued or personally owned recorders. Employees shall not duplicate or distribute such recordings, except for authorized legitimate Department business purposes. All such recordings shall be retained by the Department.

Recordings shall not be used by any member of the Department for the purpose of embarrassment, harassment or ridicule.

### **IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, officers shall tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

An officer shall transfer, tag or mark recordings when the officer reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters or a potential claim against the officer or against the Department.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time an officer reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact); the officer should promptly notify a supervisor of the existence of the recording.

## **STORAGE AND RETENTION OF RECORDINGS**

BWC recordings shall be stored in appropriate DEMS or computer server. Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incident involving use of force by an officer or an Officer-Involved Shooting;
- (b) Incidents that lead to the detention or arrest of an individual; and
- (c) Recordings relevant to a formal or informal complaint against an officer or the Department

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

Non-evidentiary data including video and audio recorded by a body-worn camera should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

All MAV, jail monitoring systems, building security systems, and public safety camera system media will be labeled and stored in a designated secure area. All recording media that is not booked as evidence will be retained for a minimum of one year after which time it will be erased, destroyed or recycled in accordance with the established records retention schedule (Government Code § 34090.6).

(CALEA 41.3.8 d)

## **RELEASE OF AUDIO/VIDEO RECORDINGS**

All recorded media, recorded images and audio recordings are the property of the Department. Dissemination outside of the agency is strictly prohibited, except to the extent permitted or required by law.

Any MAV, BWC and other known video or audio recordings of an incident shall not be publicly released during an ongoing investigation without the approval of the Chief of Police or their designee. Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

## **REVIEW OF RECORDED MEDIA FILES**

After downloading and tagging the recorded media, officers should review the recorded media from their MAV system or BWC as a resource to assist in the preparation of their written reports. Only with prior approval of the Chief of Police or their designee, may an officer involved in a use of force resulting in serious physical injury, a shooting, or death, be permitted to review available Mobile Audio/ Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). In no case shall

an officer retain personal copies of recordings. Officers should not rely on the fact that a recording was made and write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the employee's performance.

Recorded files may also be reviewed:

- (a) By any member of the Department who is conducting an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) If an officer is to be interviewed in the course of a personnel complaint, the involved officer(s), including witness officers, should be allowed, prior to being interviewed, to review a copy of the recording(s) of the incident of his/her involvement.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (d) By media personnel with permission of the Chief of Police or the authorized designee.
- (e) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.
- (f) To ensure the recording system is functioning.
- (g) By Department personnel who request to review recordings for other purposes (e.g. court preparation) upon supervisory approval.
- (h) To assess possible training value
- (i) Recordings may be shown for training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the Division Commander to determine if the training value outweighs the officer's objection
- (j) Semi-annual audits of captured media should also be conducted by authorized supervisors in January and July of every year. Supervisors must randomly review at least six (6) media files to ensure Officers are adhering to Departmental policies and procedures. Each review shall be documented on the Audio/Video Recordings (AVR) Request Form. (CALEA 41.3.8 g)

All recordings shall be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

**(CALEA 41.3.8 c)**

APPROVED:



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